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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 002006

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STATE FOR SA/INS, LONDON FOR POL/GURNEY, NSC FOR MILLARD

E.O. 12958: DECL: 10/15/2013

TAGS: [PGOV](#) [KCOR](#) [NP](#)

SUBJECT: NEPAL: ONE EX-MINISTER AND TWO SECRETARIES

ARRESTED ON CORRUPTION CHARGES

REF: KATHMANDU 975

Classified By: DCM Robert K. Boggs for Reasons 1.5 (b,d).

SUMMARY

¶11. (C) On October 13, Nepal's anti-corruption agency, the CIAA, arrested three former senior government officials, including former minister and Deputy General Secretary of the Nepali Congress Party Govinda Raj Joshi, as well as two former government secretaries. Joshi's arrest represents the second time that the CIAA has filed formal charges against a high-level political figure and former minister. CIAA Chief Commissioner Upadhyay asserted that the cases against Joshi and the two ex-secretaries are very strong and anticipates successful convictions. Another CIAA official, however, feared that the cases would drag out for a long period due to political pressure on the Special Court judges to avoid prosecutions. End Summary.

FORMER HIGH-LEVEL OFFICIALS ARRESTED

¶12. (U) On October 13, the Commission to Investigate Abuses of Authority (CIAA) arrested former minister and Deputy General Secretary of the Nepali Congress (NC) party, Govinda Raj

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Joshi, and two former government secretaries, Chakra Bandhu Aryal and Padam Prasad Pokharel. Life-long bureaucrats, Aryal was formerly Secretary of the Defense Ministry, while Pokharel was formerly Secretary of the Home Ministry. Joshi, a close associate of NC President G.P. Koirala, was most recently Minister of Local Development (2001), prior to which he was Minister of Home (2000), Water Resources (1999), and Education (1995-1997). Joshi is the second former minister and high-level political leader to be prosecuted by the CIAA. The first was Khum Bahadur Khadka, former Home Minister and General Secretary of the Nepali Congress (Democratic), who resigned his party position in May 2003 after his indictment (reftel).

SUSPECTS ALLEGE THE CIAA IS POLITICALLY MOTIVATED

¶13. (C) After receiving the first CIAA summons in May 2003 along with Khadka and others, Joshi and Pokharel filed similar cases with the Supreme Court contesting the legality of the CIAA's actions, claiming that the CIAA was politically motivated and lacked legal legitimacy. These cases are still pending within the Supreme Court. In a meeting with PolOff on October 15, CIAA Head Commissioner Surya Nath Upadhyay dismissed these allegations, asserting that the CIAA is constitutionally mandated with conducting investigations, arrests and prosecutions of any public official who has misused his position for personal benefit. Additionally, he said, the Commission's actions show that it is not politically biased; the CIAA has filed cases against members of all the major political parties, Upadhyay explained. However, Upadhyay admitted that the majority of CIAA cases are filed against NC members because that party held power for most of Nepal's 12 years of democracy. Consequently, most corruption at the political level will be found in the NC and NC (Democratic) parties, he said. Upadhyay also pointed out that, on October 13, the CIAA issued an arrest warrant for Rabindra Nath Sharma, a key leader of the royalist Rastriya Prajatantra Party (RPP). Sharma was not arrested, however, as he is reportedly abroad on official travel.

CIAA ANTICIPATES SUCCESSFUL CONVICTIONS, BUT DELAYS COULD OCCUR

¶14. (C) Upadhyay further noted that the arrests were made after nearly four months of investigation into the suspects' property holdings, as well as the property of their close relatives, across all 75 districts of Nepal and in India.

Although he was unable to give approximate amounts of the suspects' illicitly- accumulated wealth, Upadhyay suggested that Joshi had acquired wealth in the "range of tens of millions of rupees" while former secretaries Aryal and Pokharel had acquired even more. Upadhyay was able to provide examples of the type of evidence the CIAA was investigating. For example, the CIAA discovered that Joshi's octogenarian, widowed mother-in-law holds the title to a property worth more than NRs 10 million (USD 134,000), but has been unable to show investigators how she legitimately acquired the property. In another instance, Upadhyay said, Joshi's brother-in-law, a low-level government clerk, possesses a "palatial estate" but also is unable to show how it was acquired. The Commissioner noted that with access to Joshi's property documents and bank statements, as well as those of his relatives, the CIAA "has developed a very strong case against Joshi."

15. (C) On October 14, the CIAA presented to the Special Anti-Corruption Court a motion seeking to hold the suspects in detention for one month in order to complete the investigation. According to CIAA Joint Secretary Surya Koirala, the CIAA will likely seek a six-month extension of the detention period to ensure that the defendants do not destroy evidence or attempt to flee the country. The court, however, will likely decide to release the suspects on bail as they did in the case of former minister Khadka in May, he said. Koirala also confided that the cases likely would take over a year to prosecute because of political party pressure on judges not to convict political leaders.

16. (SBU) Koirala pointed out that the CIAA's success rate in convictions is high, although most cases have involved false certificates of academic or professional qualifications that are easily adjudicated. In June, the CIAA was successful in convicting its first property case when the former Executive Director of Royal Nepal Airline Corporation, Mr. Hong Kong Rana Magar, was sentenced to three years in jail and a fine of USD 700,000, after he failed to procure an aircraft despite entering into a contractual lease and paying USD 700,000 to U.S. company Chase Air, Inc. Koirala echoed the Commissioner's sentiment that the current cases are solid and will result in successful convictions.

COMMENT

17. (C) The arrest of former minister Joshi and former secretaries Aryal and Pokharel are landmark achievements for

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Nepal's anti-corruption agency, which remains under significant pressure from political parties, private business and the media to relent in its effort to root out corruption by public officials. Despite Commissioner Upadhyay's strong stewardship, political pressure may make it difficult for the Commission to convict high-profile cases successfully. Former ministers Khadka and Joshi will be litmus tests for the CIAA's future legitimacy and success. End Comment.

MALINOWSKI